

RESPIRATORY CARE

CHAPTER 260
RESPIRATORY CARE PRACTITIONERS**645—260.1(152B) Definitions.**

“Accredited sponsor” means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

“Accredited sponsor number” means the number assigned by the board which identifies an accredited sponsor.

“Administrator” means the administrator of the board of respiratory care examiners.

“Approved program or activity” means a continuing education program or activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

“Board” means the board of respiratory care examiners.

“Department” means the Iowa department of public health.

645—260.2(152B) Availability of information. All information regarding rules, forms, time and place of meetings, minutes of meetings, and records of hearings is available to the public between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Written information may be obtained from the Iowa Board of Respiratory Care Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Inquiries may be made by E-mail address for the board of respiratory care examiners to Khoover@idph.state.ia.us.

645—260.3(147,152B) Organization and proceedings.

260.3(1) The board consists of five members appointed by the governor and confirmed by the senate. The board shall include one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the society for respiratory care, and one member who is not licensed to practice medicine or respiratory care and who shall represent the general public. A majority of the members of the board shall constitute a quorum.

260.3(2) A chairperson, vice chairperson, and secretary shall be elected at the first meeting after April 30 of each year.

260.3(3) The board shall hold at least an annual meeting and may hold additional meetings called by the chairperson or by a majority of its members. The chairperson shall designate the date, place, and time prior to each meeting of the board. The board shall follow the latest edition of Robert's Revised Rules of Order at its meeting whenever any objection is made as to the manner in which it proceeds at a meeting.

645—260.4(152B) Requirements for temporary licensure.

260.4(1) Applicants who have not passed the registry examination for respiratory therapists administered by the National Board for Respiratory Care or an entry level certification examination for respiratory therapy technicians administered by the National Board for Respiratory Care shall meet the following requirements prior to receiving a temporary license:

a. The applicant shall complete and submit to the board the application form provided by the board.

b. The applicant shall verify on a form provided by the board that the applicant is presently functioning in the capacity of a respiratory care practitioner as defined by Iowa Code chapter 152B.

260.4(2) Temporary licenses expire on July 1, 1999. An applicant must receive a permanent license on or before July 1, 1999, in order to continue to practice respiratory care.

260.4(3) Applicants who receive a temporary license are subject to all board rules, including continuing education requirements and disciplinary procedures.

645—260.5(152B) Requirements for permanent licensure. An applicant for a license to practice as a respiratory care practitioner shall meet the following requirements:

1. The applicant shall complete and submit to the board the application form provided by the board.
2. The applicant shall satisfactorily complete the registry examination for respiratory therapists or respiratory therapy technicians administered by the National Board for Respiratory Care.
3. The applicant shall have successfully completed a respiratory care education program for training respiratory therapists.

645—260.6(152B) Application.

260.6(1) The application form shall be completed in accordance with the instructions contained in the application.

260.6(2) Each application shall be accompanied by a check or money order in the amount required payable to the Iowa Board of Respiratory Care Examiners. This fee is nonrefundable.

260.6(3) No application will be considered by the board until official copies of academic transcripts, supporting documentation and fee(s) have been received by the board.

260.6(4) Applications for licensure which do not meet the minimum criteria for licensure shall be retained by the professional licensure division for a maximum of three years from the date the application was received. Persons whose applications for licensure are more than three years old must submit a new application and applicable fee(s).

260.6(5) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing to the board within 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined herein shall specifically delineate the facts to be contested and determined at the hearing.

645—260.7(152B) License renewal.

260.7(1) The biennial license renewal period shall extend from April 1 of each even-numbered year through March 31 of the next even-numbered year.

260.7(2) At least two months prior to the expiration of the license, the board office shall mail a renewal application and continuing education report form to the licensee. Failure to receive the notice shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

a. The licensee shall submit to the board office, 30 days before licensure expiration, the application and continuing education report form with the renewal fee as specified in rule 260.11(152B).

b. When the licensee has satisfactorily completed the requirements for renewal 30 days in advance of the expiration of the previous license, a renewal license shall be issued and mailed to the licensee before expiration of the previous license.

260.7(3) When the licensee has not satisfactorily completed the requirements for renewal before the previous license expired and prior to its becoming delinquent, the licensee shall be assessed a late fee, as specified in rule 260.11(152B).

260.7(4) If the renewal fees are not received by the board within 60 days after the end of the last month of the renewal period, an application for reinstatement must be filed with the board with a reinstatement fee in addition to the renewal fee and the penalty fee outlined in subrule 260.7(1) and rule 260.11(152B).

645—260.8(152B) Inactive license. Licensees who do not practice respiratory care may be granted a waiver of compliance with continuing education requirements. The licensees shall apply in writing to the board requesting such status. The request shall contain a statement that the licensees will not hold themselves out to the public as being licensed respiratory care practitioners or practice respiratory care during the time the waiver is in effect. Inactive licensees shall pay the reinstatement fees as provided in subrule 260.11(5).

645—260.9(152B) Fees.

260.9(1) Application fee for a license to practice as a respiratory care practitioner is \$75.

260.9(2) Biennial renewal fee for a license to practice as a respiratory care practitioner is \$50.

260.9(3) Penalty fee for late payment of renewal fee is \$25.

260.9(4) Penalty fee for earning continuing education late is \$25.

260.9(5) Reinstatement fee is \$25.

260.9(6) Fee for duplicate license is \$10.

260.9(7) Fee for verification of licensure is \$10.

260.9(8) All fees are nonrefundable.

645—260.10(152B) Students/graduates.

260.10(1) A student enrolled in a respiratory therapy training program who is employed in an organized training program in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for a limited period as follows:

1. For the duration of the respiratory therapist program, not to exceed four years.
2. For the duration of the respiratory technician program, not to exceed two years.

260.10(2) A graduate of an approved respiratory care training program employed in an organized health care system may render services as defined in Iowa Code sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for one year. The graduate shall be identified as a “respiratory care practitioner-license applicant.”

260.10(3) Direct and immediate supervision of a respiratory care student or graduate practitioner means that the licensed respiratory practitioner shall:

1. Be continuously on site and present in the department or facility where the student or graduate is performing care;
2. Be immediately available to assist the person being supervised in the care being performed; and
3. Be responsible for care provided by students and graduates.

645—260.11(152B,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that the licensee is guilty of any of the following acts or offenses:

1. The grounds listed in Iowa Code section 272C.10.
2. Violations of 645—Chapter 260.
3. Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, false representations of a material fact, whether by word or conduct, false or misleading allegations, or concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged diploma, or certificate, affidavit, identification, or qualification in making application for licensure in this state.
4. Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes, but is not limited to, a respiratory care practitioner having made misleading, deceptive, or untrue representations as to the practitioner's competency to perform professional services which the respiratory care practitioner is not qualified to perform.
5. Professional incompetence. Professional incompetence includes but is not limited to:
 - A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;
 - A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other respiratory care practitioners in the state of Iowa acting in the same or similar circumstances;
 - A failure by a respiratory care practitioner to exercise in a substantial respect that degree of care which is ordinarily exercised by the average respiratory care practitioner acting in the same or similar circumstances;
 - A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of respiratory care in the state of Iowa.
6. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.
7. Habitual intoxication or addiction to the use of drugs. The inability of a respiratory care practitioner to practice respiratory care with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals, or other material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals, or other material which may impair a respiratory care practitioner's ability to practice the profession with reasonable skill and safety.
8. Involuntary commitment for treatment of mental illness, drug addiction, or alcoholism.
9. Being adjudged mentally incompetent by a court of competent jurisdiction.
10. Making suggestive, lewd, lascivious, or improper remarks or advances to a patient.
11. Verbally, physically, or sexually abusing a patient.
12. Any sexual intimidation or sexual relationship between a respiratory care practitioner and a patient.
13. Unethical practices, including:
 - Betraying a professional confidence;
 - Falsifying patient records;
 - Engaging in a professional conflict of interest;
 - Misappropriation of funds.

14. Use of untruthful or improbable statements in advertising. Use of untruthful or improbable statements in advertising includes, but is not limited to, an action by a respiratory care practitioner in making information or intention known to the public which is false, deceptive, misleading, or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to, the following:

- Inflated or unjustified expectations of favorable results.
- Self-laudatory claims that imply that the respiratory care practitioner is skilled in a field or specialty of practice for which the practitioner is not qualified.
- Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care profession.

15. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice respiratory care.

16. Failing to exercise due care in the delegation of respiratory care services to or supervision of assistants, employees, or other individuals, whether or not injury results.

17. Permitting another person to use one's license.

18. Practicing outside the scope of the license.

19. Obtaining any fee by fraud or misrepresentation.

20. Willful or repeated gross malpractice or willful or gross negligence.

21. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority; or selling, prescribing, or giving away controlled substances.

22. Violating a lawful order of the board, previously entered into by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

23. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of respiratory care.

24. Conviction of a felony related to the profession, or the conviction of any felony which would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

25. Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

26. Failure to report a license revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country, within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

27. Failure of a licensee or an applicant for licensure in this state to report any voluntary agreement to restrict the practice of respiratory care entered into in another state, district, territory, or country.

28. Knowingly submitting a false report of continuing education or failure to submit the annual report of continuing education.

29. Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

30. Failure to report a change of name or address to the office of the board within 30 days after occurrence.

31. Failure to comply with a subpoena issued by the board.

32. Rescinded IAB 7/14/99, effective 8/18/99.

33. Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code chapter 252J.

645—260.12(152B,272C) Code of ethics.

260.12(1) The respiratory care practitioner shall practice acceptable methods of treatment, and shall not practice beyond the competence or exceed the authority vested in the practitioner by physicians.

260.12(2) The respiratory care practitioner shall continually strive to increase and improve knowledge and skill, and render to each patient the full measure of the practitioner's ability. All services shall be provided with respect to the dignity of the patient, regardless of social or economic status, personal attributes or the nature of the patient's health problems.

260.12(3) The respiratory care practitioner shall be responsible for the competent and efficient performance of assigned duties, and shall expose incompetent, illegal or unethical conduct of members of the profession.

260.12(4) The respiratory care practitioner shall hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient's physician.

260.12(5) The respiratory care practitioner shall not accept gratuities and shall guard against conflict of interest.

260.12(6) The respiratory care practitioner shall uphold the dignity and honor of the profession and abide by its ethical principles.

260.12(7) The respiratory care practitioner shall have knowledge of existing state and federal laws governing the practice of respiratory therapy and shall comply with those laws.

260.12(8) The respiratory care practitioner shall cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

645—260.13(152B) Continuing education requirements for licensees. Rescinded IAB 12/27/00, effective 1/31/01.

645—260.14(152B) Approval of continuing education programs and activities. Rescinded IAB 12/27/00, effective 1/31/01.

645—260.15(152B) Procedures for approval of continuing education programs. Rescinded IAB 12/27/00, effective 1/31/01.

645—260.16(152B) Hearings regarding continuing education. Rescinded IAB 12/27/00, effective 1/31/01.

645—260.17(152B) Disability or illness. Rescinded IAB 12/27/00, effective 1/31/01.

These rules are intended to implement Iowa Code chapters 17A and 152B.

[Filed 7/20/88, Notice 6/1/88—published 8/10/88, effective 9/14/88]

[Filed 11/9/89, Notice 5/31/89—published 11/29/89, effective 1/3/90]

[Filed emergency 7/12/90—published 8/8/90, effective 7/12/90]

[Filed 5/10/91, Notice 11/14/90—published 5/29/91, effective 7/3/91]

[Filed 11/22/91, Notice 8/7/91—published 12/11/91, effective 1/15/92]

[Filed 3/10/93, Notice 9/16/92—published 3/31/93, effective 5/5/93]

[Filed 9/17/93, Notice 6/9/93—published 10/13/93, effective 11/17/93]

[Filed 6/12/97, Notice 5/7/97—published 7/2/97, effective 8/6/97]

[Filed 9/19/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]

[Filed 6/25/99, Notice 4/7/99—published 7/14/99, effective 8/18/99]

[Filed 12/10/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]

[Filed 12/8/00, Notice 10/4/00—published 12/27/00, effective 1/31/01]